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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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IN RE: COMPLAINT OF ADRIAN AVENA, AS OWNER  
AND AA COMMERCIAL, LLC., AS OWNER PRO HAC  
VICE, OF THE FISHING VESSEL CONCH'RD, FOR  
EXONERATION FROM OR LIMITATION OF LIABILITY

1:21-cv-00515(NLH)(MJS)

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KIMBERLY WOLFE, AS PERSONAL REPRESENTATIVE OF  
THE ESTATE OF AARON GREENBERG, AND ON  
BEHALF OF KG, OVER WHOM KIMBERLY WOLFE IS THE  
APPOINTED CO-GUARDIAN, AND WHO IS THE SURVIVING  
MINOR CHILD OF THE DECEDED, AARON GREENBERG,

Third-Party Plaintiff,

V.

DANIEL J. AVENA, THE UNITED STATES OF AMERICA,  
CM HAMMAR AB, and REVERE SURVIVAL, INC.,

Third-Party Defendants.

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**AFFIDAVIT OF JOSEPH FATTORUSSO, ESQ. IN SUPPORT OF THIRD-PARTY  
PLAINTIFF'S MOTION TO FILE A SECOND AMENDED COMPLAINT.**

STATE OF NEW YORK )  
                         ) ss.:  
COUNTY OF NEW YORK )

I, JOSEPH FATTORUSSO, being duly sworn deposes and says,

1. I am co-counsel for the third-party plaintiff, Kimberly Wolfe, and I make this application

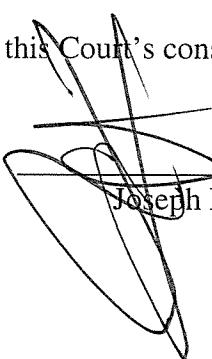
for an order permitting her to file and serve a second amended third-party complaint in this matter pursuant to District of New Jersey Local Rule 15.1(a). This is the first application for the requested relief.

2. The proposed second third-party amended complaint, will add as a third-party defendant, Sea Gear Marine Supply, Inc. Additionally some clarifications to the text as to the other third-party defendants are included in the proposed second amended third-party complaint. These proposed changes are based upon documentation obtained by my office, on information and belief, and discussion with counsel.
3. Annexed hereto as Exhibit “1” is a true and accurate copy of the proposed second amended third-party complaint plaintiff will file with this Court should this motion be granted and an order issued.
4. Annexed hereto as Exhibit “2” is a true and accurate copy of the Microsoft Word version of the proposed second amended third-party complaint with track changes on, including additional commentary regarding plaintiff’s technical word changes.
5. Both Exhibit 1 and Exhibit 2 were sent to all parties in this matter for their review.
6. Based upon review of the proposed second amended third-party complaint counselors for third-party defendants, Daniel J. Avena, The United States of America, and CM Hammar AB, have given their consent for plaintiff to file the within proposed pleading, but do so pursuant to the notice requirement in Local Rule 15.1.
7. However, the undersigned has been unable to get in contact with Charles R. Issacs, Esq. or Kenneth Danielsen, Esq., of Cipriani & Werner, counsel for Revere Survival, Inc. Of note, all parties have been aware of our intentions to file a second amended third-party complaint since August 15, 2022. The undersigned has communicated openly with all

parties about this filing. All parties have engaged in providing their own respective feedback to our requests, and preliminary drafts of the second amended third-party complaint, via email of which Mr. Issacs and Mr. Danielsen have been carbon copied on since August 15, 2022.

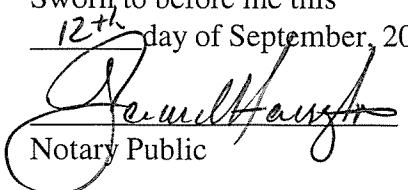
8. The undersigned sent emails specifically addressed to Mr. Issacs and Mr. Danielsen on September 2<sup>nd</sup>, 6<sup>th</sup> and 9<sup>th</sup> seeking their consent and review of the proposed second amended third-party complaint, to no avail. On September 7, 2022, the undersigned left a voice message with the offices of Cipriani & Werner regarding same, but no one has responded yet.
9. Thus, all parties have given their consent, except the law offices of Cipriani & Werner on behalf of Revere Survival, Inc. who have provided no response in agreement or to the contrary.
10. I can not continue to wait for the offices of Cipriani & Werner to respond. Therefore, I am respectfully filing the within motion for this Court's consideration.

Dated: 9/12/2022



Joseph Fattorusso

Sworn to before me this  
12<sup>th</sup> day of September, 2022



Notary Public

GERARD HARRINGTON  
Notary Public, State of New York  
No. 01HA6102369  
Qualified in New York County  
Commission Expires Dec. 8, 2023